

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SANDRA L. FERGUSON,

Plaintiff,

vs.

BRIAN J. WAID AND THE WAID  
MARITAL COMMUNITY,

Defendants.

NO. 2:17-cv-1685-RSM

**COUNTER-PLAINTIFF/DEFENDANT  
BRIAN J. WAID'S REPLY IN SUPPORT  
OF THE MOTION FOR  
SUPPLEMENTAL PROCEEDINGS**

NOTE DATE: FEBRUARY 15, 2019

Plaintiff/Counter-Defendant Sandra Ferguson does not object to the categories of information and documents requested in supplemental proceedings. Therefore, this Court should issue an order directing Ms. Ferguson to provide the requested information and documents in supplemental proceedings.

Ms. Ferguson's only objection is to the time period of the requested information and documents. However, Ms. Ferguson fails to cite any legal authority for the proposition that five years of information and documents is unduly burdensome and overbroad with respect to tracing and establishing Ms. Ferguson's assets and property. She also fails to provide a declaration supporting any of the facts stated in her response.

**COUNTER-PLAINTIFF/DEFENDANT BRIAN J.  
WAID'S REPLY IN SUPPORT OF THE  
MOTION FOR SUPPLEMENTAL  
PROCEEDINGS -1  
(2:17-CV-01685-RSM)**

**CARROLL, BIDDLE, &  
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1 First, five years of information and documents is a reasonable request to allow for  
 2 sufficient analysis of Ms. Ferguson's available assets and property to enforce Mr. Waid's  
 3 judgment.<sup>1</sup> For example, in *Mission Capital Works, Inc. v. SC Restaurants, Inc.*, the court found  
 4 that requests for ten years of information regarding property, income, and assets and requests for  
 5 five years of financial and tax documents was appropriate.<sup>2</sup> "The presumption should be in favor  
 6 of full discovery of any matters arguably related to the judgment creditor's efforts to trace the  
 7 judgment debtor's assets and otherwise enforce [his] judgment."<sup>3</sup>

8 In addition, to support her request that the scope of supplemental proceedings be limited  
 9 to two years, Ms. Ferguson states that evidence of the recent payment to Mr. Waid pursuant to  
 10 the sanctions order is insufficient to justify a five-year time period. Ms. Ferguson, however,  
 11 does not cite to any case law or other authority to support this proposition. Moreover, given that  
 12 no financial documents or information were produced in discovery, Ms. Ferguson's recent  
 13 payment is the only documentary evidence in this case of Ms. Ferguson's financial condition.  
 14 The fact that it was a recent payment does not preclude Mr. Waid from access to information and  
 15 documents that allows for sufficient analysis of Ms. Ferguson's assets and property. Likewise,  
 16 the assertion that Ms. Ferguson's law practice information and documents for the last two years  
 17 would be sufficient to show past and future income is belied by the fact that Ms. Ferguson takes  
 18 contingency cases that could take more than two years to resolve—for example, *SEBS v. ABC,*  
 19 *Corp.*, King County Superior Court Case No. 10-2-06166-5 SEA, the case that resulted in a fee  
 20 dispute between Ms. Ferguson and her co-counsel, and in which Mr. Waid represented Ms.  
 21 Ferguson regarding the fee dispute.<sup>4</sup>

22  
 23 <sup>1</sup> See *Mission Capital Works, Inc. v. SC Restaurants, Inc.*, No. 09-CV-1623-WQH(JMA), 2009 WL 4895315, at \*1–  
 2 (S.D. Cal. Dec. 10, 2009).

24 <sup>2</sup> *Id.*

25 <sup>3</sup> *Id.* (quoting *Credit Lyonnais, S.A. v. SGC Intern., Inc.*, 160 F.3d 428, 430 (8th Cir.1998) (internal quotations  
 26 omitted)).

<sup>4</sup> See *Decl. of Sandra Ferguson in Support of Pl.'s Mot. for Declaratory Rulings & Partial S.J.*, Dkt. no. 58-1, at ¶¶  
 42, 52.

1 Finally, the assertion that some of the requested financial records were produced during  
 2 discovery in prior lawsuits between the parties is incorrect.<sup>5</sup> There were two lawsuits filed by  
 3 Ms. Ferguson against Mr. Waid in King County Superior Court, one in 2014 and the other in  
 4 2015.<sup>6</sup> Ms. Ferguson only produced limited financial information in the 2014 case, consisting of  
 5 bank records for one account in her name and for a second account in the name of The Ferguson  
 6 Firm, PLLC, covering the time period of April 2011 to the latter part of February 2012.<sup>7</sup> Not  
 7 only are those records not from the time period requested in supplemental proceedings but also  
 8 Mr. Waid believes those records are subject to a protective order.<sup>8</sup> In addition, no discovery was  
 9 conducted in the 2015 case because the court entered a stay pending the appeal of the 2014 case.<sup>9</sup>  
 10 Ms. Ferguson presents no legal or factual basis to limit the scope of supplemental proceedings to  
 11 a two-year time period for information and documents. The five-year time period is reasonable  
 12 and could reveal more available assets and property than could be ascertained from reviewing  
 13 information and documents for the last two years.

14 For the foregoing reasons and the reasons stated in the moving brief, Mr. Waid  
 15 respectfully requests that this Court issue an order directing Ms. Ferguson to appear and testify  
 16 regarding the requested financial information and to produce copies of the requested documents  
 17 for the time period of January 1, 2014 to present.

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<sup>5</sup> See Waid Decl. ISO Reply, at ¶¶ 2–4.

24 <sup>6</sup> Waid Decl. ISO Reply, at ¶ 2.

25 <sup>7</sup> Waid Decl. ISO Reply, at ¶ 3.

26 <sup>8</sup> Waid Decl. ISO Reply, at ¶ 3.

<sup>9</sup> Waid Decl. ISO Reply, at ¶ 4.

1 Dated: February 15, 2019

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**COUNTER-PLAINTIFF/DEFENDANT BRIAN J.  
WAID'S REPLY IN SUPPORT OF THE  
MOTION FOR SUPPLEMENTAL  
PROCEEDINGS -4  
(2:17-CV-01685-RSM)**

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**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the State of Washington that on this day a true and accurate copy of the document to which this declaration is affixed was filed with the above-entitled Court through CM/ECF and was sent as indicated below on this day, to:

**Attorneys for Plaintiff:**

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☐ U.S. Mail Postage Prepaid  
☒ CM/ECF  
☐ Hand Delivery  
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DATED this 15<sup>th</sup> day of February 2019.

/s/ Stephanie M. Hosey  
Stephanie M. Hosey, Paralegal

COUNTER-PLAINTIFF/DEFENDANT BRIAN J.  
WAID'S REPLY IN SUPPORT OF THE  
MOTION FOR SUPPLEMENTAL  
PROCEEDINGS -5  
(2:17-CV-01685-RSM)

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